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Charlevoix County Probate Court.

(By Judge of Probate J. M. Harris.)

During the campaign just passed the following criticisms of the Probate Judge's office were made by the East Jordan Enterprise and extensively circulated throughout the county, and it may be that individuals other than the editor of the paper are curious to know the facts relative to the administration of this important office. The criticisms were as follows:

1. During Judge Stroud's administration the salary of the office was Six Hundred dollars, and that now it is Twelve Hundred.

2. That I drew One Hundred dollars a month from the County for four days work.

3. That Judge Stroud never had any allowance for clerk hire, while the present administration had drawn in one year something like Fifty dollars for clerk hire.

I did not reply to these criticisms in any public way during the campaign for the reason that I felt that anything that might be said would be taken as coming from me at that time with a purpose of placing myself in as favorable a light as possible for my own advantage in the campaign.

The affairs of the Probate office are too important, and so little is known of the details by the taxpayers generally of the county and the public at large, and often by the practicing attorneys that it is easy, in my opinion, to create a more erroneous impression in the public mind relative to the administration of this office than now exists.

I also believe it to be true that there is no public office in the county which the correct administration of its affairs means so much to so many people as does the administration of the affairs in Probate Court. The Probate Court differs from all other Courts in our system of jurisprudence in this, that the great bulk of the matters are decided without the aid and assistance of discussions by legal counsel. In fact, most of the legal papers are drafted by the Court itself and passed upon by him, and the individuals with any kind of interests at stake in Probate Court nearly always leave the entire disposition of these interests to the Court itself. And so little of Probate Court business has been done by practicing attorneys in the newer counties of Michigan that the attorneys themselves have not kept posted in Probate practice; and no matter how genial and accommodating the Probate Judge may be it is quite possible for him to make an error in the administration of any estate, which for the time being, will not be known to himself or to others whom it affects until long years after when the error may show up affecting valuable rights, and oftentimes does this occur after it is too late to correct the error. I make this statement because I have in mind, coming under my own knowledge, diverse cases of this character as well as many others where the errors have had to be corrected by proceedings taken later.

In the newer counties there have been times in the earlier history of the county when the pioneer has died and has been buried that has been all that there has been in it. So we find that in the earlier history of this county the Probate office has been regarded first as a nominal affair, the duties of which anyone could perform as well as another, and carrying with it merely a nominal compensation. Later as the county grew the business of the probate office has increased; the residents of the county have cleared up farms, and have succeeded in a business, industrial and professional way in accumulating a little property, which in nine cases out of ten, upon their death must be administered and distributed through the Probate Court. This has continued until in Charlevoix County at present it has become, as is above stated, a very important part of the judicial system of the County, peculiar in itself, and carrying with it a great responsibility in many ways to the man who administers its affairs.

My reply to the several criticisms of the Enterprise is made not that I, any more than any other citizen, may be particularly benefited by it but that the actual conditions may be understood and appreciated by the public who support the office.

To the first criticism the answer is: The criticism was, no doubt, aimed at the Board of Supervisors for paying so high a salary, but the Board of Supervisors have no control over the salary within certain limits; the salary is fixed by state law, and a minimum

amount is fixed, based upon the population of the different counties. From 1882 to 1894 the population of this county was less than Ten Thousand and the salary was then Six Hundred dollars. The census of 1894 showed an increase in population to between 11,000 and 12,000, and the salary from that time on was \$750.00 per year, and an amendment was made to the state law by a recent act of the legislature changing the basis of fixing the salaries, and the effect of the change of the law was to fix the nominal amount of the salary for this county at \$900.00.

The census of 1900 showed the population of the county to be 14,000 but this did not affect the salary. The census taken in June, 1904, showed the population of the county to be approximately 16,500, which made the minimum amount of salary \$1200.00. The Board of Supervisors of this county have never given the Probate Judge more than the minimum salary allowed by law.

To the second criticism my reply is that evidently the author of this criticism knows as little about the affairs of the Probate Court as any other man, woman or child in the County, or he would not have made this criticism, assuming that the criticisms are all honestly made. During my term of office I have appointed each Monday as a regular day of holding Probate Court, and no other Probate Judge had, up to that time, found it necessary to regularly hold a term of Court every Monday, but the regular terms were fixed at the first Monday in the month. The reason for this, no doubt, is the increased business in the Probate office. Aside from holding Court at Charlevoix on these regular days, my office at Boyne City is always open for the transaction of Probate business, and there have been but few days in any week in my present term in which Probate business has not been transacted at my office. In fact, all of the territory contiguous to Boyne City and east of here do their probate work in the office at Boyne City on other days than Monday, and much of this work relating to the filing of petitions, making out accounts, and other things is done by competent help in my office, paid by me individually, and whether I am present or not. And further, when the \$600.00 salary was paid the assessed valuation of the county did not exceed Two Millions, while now the assessed valuation is Five and a half Millions, nearly. This means not only that we have more estates to administer, but that the estates are larger and much more responsibility is attached to the business now than at that time. And also the duties of the Probate Court have been increased materially since then. The Probate Judge is given more work under the Drain Law, The Inheritance Tax Law, and the Board of Election Commissioners that I now recall.

To the third criticism my reply is this: That it is necessary that the Probate Judge have a clerk present in the Probate office on regular court days at least to secure the proper filing of papers and the proper recording of the same. This is a very important matter, and I believe I can fearlessly say that this matter has been properly attended to during my term of office, and that any inquiry addressed to the Probate office for information that is on file there can be promptly found, and if it relates to any proceedings during my administration that full and complete information can be given promptly from the records of the office. My experience is that this can only be done, in the present volume of business, with the assistance of a Probate Clerk to properly care for the papers and record the same. But my critic seems to think that if this were true that I should bear that expense. It should be borne in mind that the Probate Judge is serving at a minimum salary and that he ought not to be required to employ such additional help as is necessary with his own efforts to the proper conduct of the office, and if this were not a justification then I would add that at my own expense in my Boyne City office that I have a competent assistant as well as stenographer which enables me to do promptly and correctly much more business than can be done by any individual himself. This also is paid by me. In addition to that, certain fees allowed by law for copies of papers are rightfully the perquisites of the office, and when these perquisites are chargeable to the county, as is true in all insane cases as well as in many other matters, I have never secured these fees from the county, and about the time the criticism was made, to two cases then pending in my Court, I figured up these fees and found that they amounted to Eleven dollars in the

two cases, under a strict interpretation of the statute. I have always felt that I ought not to charge these because in a sense I was employed and paid by the people of the county on a salary basis. Other Judges of Probate in other counties charge these fees lawfully and receive them from the county, so I am informed by the Judges themselves. In addition to that, since being elected to this office I have tried to equip myself for the performance of the duties as well as possible, taking advantage of all means to properly inform myself, and one very efficient source of valuable information which ought to at least reflect itself in the work of the Probate office, and I believe does, is the State Association of Probate Judges. I have never failed to attend a meeting of the Association since assuming the duties of this office, spending my own time and paying my own expenses, while in several counties of the state the counties think it worth their while to pay the necessary expense of their Probate Judge while attending these meetings. In connection with my law practice it often happens that I incur expenses for clients amounting to several hundred dollars upon my own judgment. I have tried to treat the county in the same way; I believe that the expense of clerk hire is a legitimate charge against the county, that it is equitable, and that it is the duty of the county to pay it, and in presenting the bill to the Board of Supervisors I have made the same representation to the Board of Supervisors that I make here, and the Board have thought that it was right and politic to do it.

I still believe it is a righteous charge, and will continue to present the matter to the Board from time to time, and while I cannot in an article of this character explain all of the things that I would like to explain, anyone who is interested enough to go into a further discussion of the affairs of the Probate office with me I shall be glad at any time to give them my time and attention, and show them anything and everything pertaining to the office, whether they may know about it or not.

And I might add that the same critic also says that I had held office in the county for eight years, and that I am not willing to retire, and that it is time to retire me. I have only this thought in reply to that, and that is, that in many of the older counties where the business of the Probate office becomes important as the wealth and population of the county increases they are retaining competent Probate Judges in office from term to term; several Judges of my acquaintance are now serving from their fourth term up. I believe that every man is entitled to fill an office just as long as his conduct with the office make it profitable for the people to keep him there, and I do not now know whether it may be to my interest to fill out the succeeding term that I have been elected to, or whether I shall ever consider it profitable to be a candidate for this or any other office in the future, but whether I do or not I shall endeavor to discharge the duties of the office along the lines that I think are lawful and right, and in the future to accept this or any other office to which the people may see fit to elect me, and in my judgment it is to my advantage to accept.

JOHN M. HARRIS.
JUDGE OF PROBATE.

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